S.B. Civil Writ Petition No.8988/02

Sher Singh Yadav

Vs.

Raj. Small Industries Corporation Ltd. & Ors.

Date of Order : 03/03/2006

Hon'ble Mr. Justice Ajay Rastogi

Mr. N.K. Bhatt, for petitioner
Mr. G.C. Garg] for respondents
Mr. Alok Garg]

The writ petition has been filed basically for execution of award passed by the Labour Court, Jaipur dt.24th April, 1997. The learned Labour Court while answering reference referred to by the appropriate government finally vide its award set aside the termination, which was given effect to w.e.f. 28th January, 1984 and substituted penalty of stoppage of five annual grade increments with cumulative effect and it was further directed that after reinstating the workman and taking note of the punishment inflicted upon him, fixation be made and so also for the period of absence, the same will be adjusted as an extraordinary leave. Against the said award, the writ petition was filed before this court by the respondents, which was decided on 22nd November, 2001, where some alteration was made in the award passed by the Labour Court, but the order of learned Single Judge was set aside in a special appeal vide judgment dt.12th February, 2002.

The petitioner has filed separate application u/s.33C(2) of the Act and so also u/s.29 for prosecuting the authority as provided under the Act of 1947. The petitioner further approached this court in relation to same award by filing Writ Petition No.3239/04 with the grievance that in the light of order passed by the Division Bench of this court, he has been made entitled for certain benefits in terms of award itself. As such while deciding the writ petition on 31st January, 2005 this court granted him liberty to file another application u/s.33C(2) of the Act and claim benefits as per award passed by the Labour Court if he is entitled for.

Respondents have also filed additional affidavit wherein it has been averred that the petitioner has been reinstated in service in terms of award on 10th September, 2000 and the benefits have been paid to him, which has been seriously disputed by the petitioner.

Counsel for petitioner further submits that the machinery which has been provided under the Act for execution/implementation of the award is very cumbersome and despite sufficient time has been consumed, application filed u/s.29 is still pending

before the Commissioner and the same has not been disposed of despite his best efforts.

I have considered the submissions made and perused the material on record.

The statute has provided full mechanism for implementation of the award passed by the Tribunal/Labour Court, as the case may be. The petitioner has also approached the concerned authority u/s.33C(2) as well as u/s.29 of the Act of 1947 and as regards the computation for which he additionally claimed after decision of Division Bench, this court granted him further liberty to claim the same by filing application u/s.33C(2) vide order dt.31st January, 2005 while disposing of the Writ Petition No.3239/04 filed by the present petitioner in relation to same award in question. As referred to by the respondents in their affidavit sufficient compliance of the award has been made and that apart when statute itself provides mechanism, which the petitioner has availed by filing application u/s.33C(2) & Section 29 of the Act. In my opinion, it does not call for any interference by this court under Article 226 of the Constitution to issue a writ for execution of the award.

Consequently, the writ petition fails and is hereby dismissed. However, the petitioner will be free to prosecute the remedy which he has availed under the Act of 1947. No costs.

[Ajay Rastogi],J.

FRB